

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #3	CCRB Case #: 202107262	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/28/2020 5:43 PM, Tuesday, 07/28/2020 6:00 PM, Tuesday, 07/28/2020 6:27 PM	Location of Incident: East 25th Street and Madison Avenue (Madison Square Park)	Precinct: 13	18 Mo. SOL 1/28/2022	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 11/30/2021 9:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/30/2021 9:26 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. SGT Adiv Koenig	04459	935124	SRG 3
4. LT Michael Gaon	00000	933794	P S B
5. DT2 Kaz Daughtry	03581	940052	CAB
6. DC James Kehoe	00000	891678	PBMS
7. AC Stephen Hughes	00000	874365	PBMS

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against an individual.	
B.AC Stephen Hughes	Force: Assistant Chief Stephen Hughes used physical force against individuals.	
C. Officers	Force: An officer used physical force against § 87(2)(b)	
D.SGT Adiv Koenig	Force: Sergeant Adiv Koenig used physical force against § 87(2)(b)	
E.DC James Kehoe	Force: Deputy Chief James Kehoe used physical force against § 87(2)(b)	
F.LT Michael Gaon	Force: Lieutenant Michael Gaon used physical force against § 87(2)(b)	
G. An officer	Force: An officer used physical force against § 87(2)(b)	
H. An officer	Force: An officer used physical force against § 87(2)(b)	
I. Officers	Abuse: An officer damaged § 87(2)(b)'s property.	
J. Officers	Discourtesy: Officers spoke discourteously to individuals.	
K.DT2 Kaz Daughtry	Abuse: Detective Kaz Daughtry threatened § 87(2)(b) with the use of force.	

Case Summary

On November 30, 2021, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of himself and unidentified individuals. This complaint is a spin-off from CCRB case #202005289 [BR01].

On July 28, 2020, at approximately 6:00 p.m., § 87(2)(b) was part of a 2020 Police Brutality protest, which marched from East 25th Street and Second Avenue to East 25th and Madison Avenue in Manhattan. As they were marching, § 87(2)(b) observed multiple officers take § 87(2)(b) to the ground (**Allegation A: Force;** § 87(2)(g)). Upon reaching the intersection, § 87(2)(b) and the other protesters were grabbed, taken to the ground, and arrested under the direction of Assistant Chief (AC) Stephen Hughes of Patrol Borough Manhattan South (**Allegation B: Force;** § 87(2)(g)). Multiple officers then grabbed § 87(2)(b) and took him to the ground, including Deputy Chief (DC) James Kehoe of Patrol Borough Manhattan South, Lt. Michael Gaon of the Patrol Services Bureau, and Sgt. Adiv Koenig of Strategic Response Group 3 (SRG) (**Allegations C through F: Force;** § 87(2)(g)). § 87(2)(b) alleged that while he was on the ground, an officer dropped onto § 87(2)(b)'s thigh with his knee and an officer punched him, although he could not describe where (**Allegations G and H: Force;** § 87(2)(g)). § 87(2)(b) alleged that the officers' actions caused his glasses to break (**Allegation I: Abuse of Authority;** § 87(2)(g)). During the incident, § 87(2)(b) allegedly heard multiple officers on scene using profanity (**Allegation J: Discourtesy;** § 87(2)(f)). While § 87(2)(b) was being handcuffed, Det. Kaz Daughtry of the Community Affairs Bureau placed his taser it against § 87(2)(b)'s neck (**Allegation K: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) was subsequently handcuffed and transported to the 17th Precinct stationhouse, where he was charged with resisting arrest and obstruction of governmental administration [BR05]. He was ultimately released with a desk appearance ticket (DAT) [BR02].

The investigation received body-worn camera (BWC) footage from Lt. Gaon, Sgt. Koenig, Det. Damon Plonczynski from the Disorder Control Unit, PO Marco Dutan of the 32nd Precinct, PO Damian Thamos from SRG 3, Sgt. Steven Lackos from Tactical Training Department, PO Errol Murphy from SRG 1, PO Omar Aguilar from SRG 1, Sgt. Thomas Durkin from the Counterterrorism Division, PO Xavier Morales from Tactical Training Department, PO Jackson Dagobert from the 13th Precinct, PO Edward Mendes from the Central Park Precinct, PO Louis Delia from SRG 4, PO Stephen Centore from Tactical Training Department, PO Jonathan Formichelli from SRG 5, PO Anthony Serrano from SRG 5, Sgt. Matthew Tocco from Tactical Training Department, Sgt. Joseph Narnjo from Chief Crime Control Strategies, PO Mikel Strauch from SRG 4, PO Gregory Schoendorf from SRG 4, PO Alexis Martinez from SRG 4, PO Ismael Remigio from SRG 1, Lt. Cory Weiner from SRG 5, PO Michael Rivera from SRG 2, PO Sandra Gonzalez from SRG 2, PO Rudolph Rosado from Disorder Control Unit, Sgt. Consuelo Ruiz from Transit Bureau District Transit 11, PO Bekir Oner from SRG 3, PO Brett Jackson from the Police Academy, PO Robert Wong from Brooklyn Special Victims Unit, PO Jesus Munet from SRG 3, PO Asar Rhymer from SRG 3, Lt. Adam Mellusi from SRG, PO Wegens Desiste from SRG 3, PO Brianna Caroli from SRG 5, PO Michael Riggio from SRG 2, Sgt. Elias Vasquez from SRG 2, PO Lam Ho from SRG 1, PO Ye Aung from SRG 5, PO Anibal Vasquez from SRG 2, PO Allan Pajak from SRG 5, PO Gregory Baluzy from SRG 3, PO Granit Shaba from SRG 1, Sgt. Thomas Garguilo from the 120th Precinct, Lt. Peter Sotiriou from SRG 3, PO Harry Kerr from SRG 2, Sgt. Gerardo Mena from SRG 1, PO Krystina Poloni from SRG 1, Sgt. Angel Vasquez from Transit Bureau District Transit 4, PO Mohamed Yafai from SRG 3, Sgt. Keith Hockaday from 81st Precinct, PO Egemen Aydin from SRG 1, Lt. Kevin Mulhern Chief Crime Control Strategies, PO Patrick Connolly from SRG 3, PO March Assael from SRG 1, PO Thomas Peters from SRG 3, PO Michael

Pasacale from SRG 3, PO James Morgante from SRG 3, PO Elvir Lekperic from SRG 3, and PO Alfonso Vargas from SRG 4[BR03]. No other video footage was obtained for this incident.

Findings and Recommendations

Allegation (A) Force: Officers used physical force against § 87(2)(b)

Allegation (B) Force: Assistant Chief STEPHEN HUGHES used physical force against individuals.

Allegation (C) Force: Officers used physical force against § 87(2)(b)

Allegation (D) Force: Sergeant ADIV KOENIG used physical force against § 87(2)(b)

Allegation (E) Force: Deputy Chief JAMES KEHOE used physical force against § 87(2)(b)

Allegation (F) Force: Lieutenant MICHAEL GAON used physical force against § 87(2)(b)

Allegation (G) Force: An officer used physical force against § 87(2)(b)

Allegation (H) Force: An officer used physical force against § 87(2)(b)

Allegation (I) Abuse of Authority: Officers damaged § 87(2)(b)'s property.

Allegation (J) Discourtesy: Officers spoke discourteously to individuals.

The incident is a continuation of the protest at East 25th Street and Second Avenue on July 28, 2020, which is investigated in CCRB case #202005289. During the protest, one of the protesters, known as § 87(2)(b), was arrested by plainclothes Warrant Officers and transported off-scene in an unmarked van. The remaining protesters on scene surrounded the van to prevent it from leaving, prompting SRG officers to form a line around the van and move the protesters back. The officers and the protesters became physically engaged, with protesters pushing and grabbing onto the SRG officers bicycles. Additional units arrived responded to officers calls for assistance shortly after. Once officers arrived on scene, the protesters moved towards East 25th Street and Madison Avenue

§ 87(2)(b) testified that he was at the intersection of East 25th Street and Second Avenue in Manhattan when he was directed by the group, he was marching with to move towards Madison Square Park. He stated that the intersection was very chaotic, with pockets of people being arrested, but approximated that there were probably 40 to 50 protesters who joined in the march there. As they were walking, § 87(2)(b) observed officers take a protester, who was a photographer, to the ground. § 87(2)(b) was unable to provide physical descriptions for these officers. He stated that he later encountered this individual in a holding cell at the 17th Precinct stationhouse. The individual informed § 87(2)(b) that his name was "§ 87(2)(b)". He did not observe any protesters throw any objects at police officers or their vehicles. Eventually, § 87(2)(b) and the rest of the marchers reached the eastern entrance of Madison Square Park on Madison Avenue. The marchers in front of § 87(2)(b) stopped inside of the park and faced the officers who were following them. § 87(2)(b) who was carrying his bicycle, and four to five other cyclists were positioned in between the officers and the other marchers. While standing in the intersection, § 87(2)(b) heard an officer, identified by the investigation as AC Hughes, tell the officers around him, "When that light changes, we go," referring to the traffic light in the intersection. Upon hearing this, § 87(2)(b) told the cyclists next to him that they needed to leave the intersection because the officers were about to "attack." Subsequently, three or four officers grabbed § 87(2)(b) and brought him to the ground on his back. Officers grabbed onto § 87(2)(b)'s right hands. He was unable to physically describe these officers. § 87(2)(b) stated that he has a history of dislocating his left shoulder and knew that if his left arm was pulled behind his back, it would be dislocated again. § 87(2)(b) tried to keep his left arm close to his stomach as officers tried to pull it backward. While he was on the ground, an officer punched § 87(2)(b) although he could not describe where he was struck and could not

attribute these punches to a specific officer. As officers attempted to grab § 87(2)(b)'s left hand, an officer stood above him and dropped from that position onto § 87(2)(b)'s thigh with his knee. § 87(2)(b) described this officer as a male in a white shirt. The officer repeated this action, striking him on the left side of his body. An officer again punched § 87(2)(b) although he could not describe where or what this officer looked like. After 20 to 30 seconds, the officers were able to pull § 87(2)(b)'s left arm away from his body and turned him over onto his stomach. Officers applied pressure to § 87(2)(b)'s left knee and left shin and pressed them into the ground, making them bleed. An officer placed handcuffs on § 87(2)(b)'s wrists behind his back. § 87(2)(b)'s shoulder was not dislocated but he stated he was in severe pain. He did not remember at which point but stated that the officers' actions caused his glasses to break but did not describe what damage they sustained. He was unsure what commands, if any, the officers issued him, as there was a lot of screaming and yelling occurring. From where he was situated, he could only see other protesters around him being beaten and arrested. He was unable to describe these arrests. He stated that he heard multiple officers using profanity on scene. He could not attribute any specific statements to specific officers. § 87(2)(b) was transported with the other arrested prisoners to the 17th Precinct stationhouse. While he was lodged there, officers offered him medical attention, which he refused, stating that he was distrustful of the officers. He was held there until 3:30 a.m. of the following day, when he was released. § 87(2)(b) stated that his thigh was bruised for approximately three weeks and his shoulder was in pain for about five weeks. He did not seek any medical attention for his injuries [BR04].

According to § 87(2)(b)'s arrest report, PO Domonic Gibson of SRG 3, § 87(2)(b)'s arresting officers, was informed by Sgt. Koenig that § 87(2)(b) was resisting arrest. He was observed "§ 87(2)(b), § 87(2)(a) 160.50". § 87(2)(b) did "§ 87(2)(b), § 87(2)(a) 160.50". He was ultimately charged with § 87(2)(b), § 87(2)(a) 160.50 [BR05].

The investigation was unable to find any individual arrested on July 28, 2020, in Manhattan whose name was like § 87(2)(b) [BR06]. The investigation was also unable to find anyone matching this name who was detained with § 87(2)(b) in the 17th Precinct stationhouse [BR02]. The investigation was therefore unable to identify or interview this alleged victim.

§ 87(2)(e), § 87(2)(g)

AC Hughes testified that he was acting as commanding officer of Patrol Borough Manhattan South on the incident date. He responded to East 25th Street and Second Avenue after receiving an officer call for backup over the radio. Upon responding, he observed SRG officers forming a line against protesters. He observed protesters throwing bottles at the officers, as well as pushing against them. He learned on scene that five officers were injured during this, as they were

pushed off their bicycles by protesters. AC Hughes did not take any police action while on scene. Shortly after AC Hughes arrived, the protesters began marching westbound towards Madison Avenue. AC Hughes followed the crowd on foot, keeping one to two blocks. AC Hughes stated that the protest was considered violent at this point. § 87(2)(e), § 87(2)(g)

§ 87(2)(b) He instructed the officers present, as well as the SRG officers and Mobile Field Force officers who were called for backup, to affect arrests of any protester who was conducting a violation. The crowd stopped at the intersection of East 25th Street and Madison Avenue. AC Hughes observed that a crowd of about 25 protesters were gathered in front of Madison Square Park on the sidewalk, with a row of SRG officers standing in front of them. As the protesters were not committing any violations, AC Hughes instructed the officers to move back to the sidewalk across the street. He stated that he did this to deescalate the situation. Within minutes, the protesters moved into the street and towards the officers, coming within a few feet. The protesters were in the middle of the street, blocking oncoming traffic as well as the bus lane. They remained in the street for a few light changes. AC Hughes informed the officers around him that when the traffic light turned green, to start arresting all protesters who were in the street. None of the officers issued commands for the protesters to get back on the sidewalk. Upon the light turning green, officers entered the street and began arresting protesters. AC Hughes observed officers conducting forcible takedowns of protesters who were resisting but did not recall them using any other force. He did not observe officers take § 87(2)(b) to the ground. He did not take any protester to the ground. He did not assist in the arrest of any individuals. AC Hughes did not observe § 87(2)(b)'s arrest. He did not observe any officer punch § 87(2)(b) and did not do so himself. He did not observe any officer drop onto § 87(2)(b)'s thigh with their thigh and did not do so himself. He was unaware of § 87(2)(b)'s glasses being broken during the incident. He stated that he observed multiple officers conducting multiple arrests on scene. He supervised these arrests but did not participate in them. 11 people were ultimately arrested, and he believed they were transported to Manhattan Central Booking. AC Hughes supervised the officers conducting "force protection," which he stated was when officers form a line between the arrested and non-arrested protesters. This ensures that no protester attempts to intervene in the arrest of and processing of any individuals. Once the arrested protesters were placed in the transport van, AC Hughes left the scene. He did not take any other administrative actions regarding the protest, as he was feeling unwell and subsequently ended his tour. He did not have any further interaction with any of the arrested protesters. He did not learn any additional information from other officers regarding the arrested protesters [BR08].

DC Kehoe testified that he was acting as the Executive Officer of Patrol Borough Manhattan South on the incident date. He stated that he initially responded to an assault in progress at the intersection of East 25th Street and Second Avenue. Upon arriving on scene, he observed SRG officers, who had lined their bicycles across the roadway. The officers were instructing the protesters to get onto the sidewalk, which they were not compliant with. Protesters were pushing against the SRG officers, as well as throwing items, such as water bottles. DC Kehoe also observed some additional graffiti on scene as well. Several other officers responded to scene, although DC Kehoe did not recall how many officers responded. He did not recall speaking with any other responding officers on scene. DC Kehoe did not take any police action while on scene. Shortly after DC Kehoe arrived, the crowd, consisting of about 40 protesters, moved westbound towards Madison Avenue. DC Kehoe believed that the crowd left the scene because of the additional police presence on scene. He did not know of any other reason why the protesters left aside from officers issuing instructions for them to do so. He did not recall any specific statements made by the protesters on scene. He did not observe any arrests being made at that location, but later learned that an arrest had been affected by warrant officers prior to the radio call. DC Kehoe proceeded to follow the crowd on foot, following a block behind. He was aware that some other SRG officers were also following the crowd. He did not issue any instructions to officers while they were

following. He did not receive any instructions during this time either. He stated that the intention in the following the crowd was to ensure public safety, as the crowd was blocking traffic and they had thrown objects prior, which made them disorderly. DC Kehoe did not have any interaction with the protesters while following them and did not observe any officer do so. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. The crowd stopped at the intersection of East 25th Street and Madison Avenue. Officers began issuing orders for the protesters to get onto the sidewalk, as they were in the street, blocking traffic. The group complied with and went onto the sidewalk in front of Madison Square Park. The protesters continued to shout at the officers, although DC Kehoe did not recall specific statements. All the police officers were instructing the protesters to move up onto the sidewalk. The officers did not use anything aside from verbal commands to get the protesters onto the sidewalk. At this, AC Hughes directed by the officers to move across the street. After a few minutes, the protesters moved back into the street towards the officers, stopping within a few feet of them. DC Kehoe did not have any interaction with the protesters at this point. The protesters continued with their verbal assaults, but DC Kehoe did not recall what statements they were making. Protesters were again told to go back to the sidewalk, which they were not compliant with. He did not hear any protesters provide a reasoning as to why they did not go onto the sidewalk. The protesters were blocking the bus lane and the car lanes. After several minutes, AC Hughes instructed the officers that when the traffic light turned green, to start arresting protesters who were in the street. After this command was given, the officers moved into the intersection to effect the arrests of the protesters. DC Kehoe only assisted in arresting § 87(2)(b) who was on the ground, clenching his hands towards his body and refusing to give them to the officers arresting him. DC Kehoe did not recall if he was the first officer who approached § 87(2)(b) but believed officers were already there. He did not see how § 87(2)(b) was taken to the ground. He did not recall having any involvement in § 87(2)(b) going to the ground. At one point after being taken to the ground, § 87(2)(b) turned on his side. DC Kehoe stated § 87(2)(b) continually moved around while the officers attempted to arrest him. § 87(2)(b) did not resist in any other way aside from refusing to give his hands. DC Kehoe and the other officers issued orders for § 87(2)(b) to stop resisting. He did not recall if § 87(2)(b) said anything during his arrest. DC Kehoe was holding onto § 87(2)(b)'s arm and was attempting to get his arm behind his back. The other officers were also attempting to grab § 87(2)(b)'s hands. He did not recall contacting any other part of § 87(2)(b)'s body. He did not recall using any other force aside from grabbing § 87(2)(b)'s arm. DC Kehoe did not punch § 87(2)(b) and did not observe any officer do so. He did not drop onto § 87(2)(b) with his knee and did not observe any officer do this. He did not recall what else, if anything, § 87(2)(b) did with his body. After a couple of minutes, § 87(2)(b) was handcuffed. DC Kehoe did not recall who handcuffed § 87(2)(b). § 87(2)(b) was then lifted off the ground. DC Kehoe believed that an officer placed a pair of glasses in § 87(2)(b)'s pocket, but he did not observe their state, nor did he observe § 87(2)(b)'s glasses being damaged during the arrest. He did not hear any officers using profanity while on scene and did not use any profanity himself while on scene. DC Kehoe did not have any other physical contact with any other individuals on scene that day. § 87(2)(b) was then escorted away by two officers to be processed. DC Kehoe did not recall how long he was at Madison Avenue and E. 25th Street. He did not recall debriefing with any commanding officer after the incident. He did not recall where the arrested individuals were taken. He stated that eventually the crowd dispersed, as there was no further incident between the crowd and the officers. [BR09].

Lt. Gaon testified that he was acting as administrative lieutenant when he responded to an officer call for assistance at Madison Avenue and East 25th Street. He observed about 30 protesters, possibly more, in the street and 30 officers on scene. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. Chief Hughes, who was the commanding officer on scene, told all the officers on scene that they were going to arrest the protesters. Prior to that, Lt. Gaon heard him tell the protesters, who were standing in the street, that

once the light turned green, they were going to be arrested if they did not move. At that command, the officers on scene began arresting the protesters who were in the street. Lt. Gaon observed § 87(2)(b) a couple of minutes after this order was given. He approached § 87(2)(b) who was already on the ground with five or six other officers, being arrested. § 87(2)(b) was lying with his stomach on the ground and had his hands underneath his body. Lt. Gaon did not witness § 87(2)(b) being taken to the ground by officers. Lt. Gaon did not have any physical contact with § 87(2)(b) prior to him being handcuffed. He observed officers attempting to grab § 87(2)(b)'s arms and turn him over, while simultaneously instructing him to give them his arms. Lt. Gaon did not recall how the officers got § 87(2)(b)'s arms from under him but stated that § 87(2)(b) eventually gave his arms to the officers. Once § 87(2)(b)'s arms were behind his back, Lt. Gaon assisted in bringing the two arms together so they could be handcuffed. He did not have any other physical contact with § 87(2)(b) aside from this. Lt. Gaon did not observe any officers punch § 87(2)(b) while he was on the ground and did not do so himself. He did not drop his knee onto § 87(2)(b)'s body and did not observe any officer do so. He was not aware of § 87(2)(b)'s having glasses or whether they were damaged at all during the incident. He did not hear § 87(2)(b) mention an injury in his left shoulder or any other injuries while he was being handcuffed. He did not recall what, if anything, § 87(2)(b) said while being handcuffed. He did not use any profanity on scene and did not recall any officers doing so. Once § 87(2)(b) was handcuffed, Lt. Gaon assisted in lifting him off the ground. He was then escorted away by unknown officers and Lt. Gaon returned to the 13th Precinct stationhouse. He did not participate in the arrests of anyone else that day. He did not have any further contact with § 87(2)(b) or any other arrested individual that day [BR10].

Sgt. Koenig testified that he was acting as patrol sergeant when he responded to an officer's radio call for assistance at East 25th Street and Madison Avenue with other SRG officers. Upon arriving on scene, he observed § 87(2)(b) wrestling with DC Kehoe, who was attempting to place him under arrest in the middle of the intersection. Both § 87(2)(b) and DC Kehoe were upright. DC Kehoe had two hands on § 87(2)(b) attempting to place him under arrest, while § 87(2)(b) refused to give the officer his hands. Sgt. Koenig approached them to assist in arresting § 87(2)(b). He did not take any actions on scene before assisting DC Kehoe. Several other officers also went to assist DC Kehoe, but Sgt. Koenig did not know exactly how many and did not recognize any of them. Sgt. Koenig believed that § 87(2)(b) was taken to the ground by DC Kehoe. He stated he may have been involved in the takedown but did not recall. § 87(2)(b) was brought to the ground because he was resisting arrest by refusing to give his hands to the officers. Once § 87(2)(b) went to the ground, the officers attempted to grab his hands and place them behind his back. § 87(2)(b) who was on his side, had one arm pressed underneath his body while officers held onto his other arm. Sgt. Koenig did not know exactly what actions were taken to get § 87(2)(b)'s arm but stated that he was not compliant with the officers. He did not remember if he used any physical force to get § 87(2)(b)'s hands from under him. The officers present repeatedly told § 87(2)(b) "Give us your hands," although Sgt. Koenig did not know how many times. He did not recall what other actions, if any, § 87(2)(b) was taking during this. He did not recall what, if anything, § 87(2)(b) was saying during that time. Sgt. Koenig did not punch § 87(2)(b) while he was on the ground and did not recall seeing any officer do so. He did not drop onto § 87(2)(b)'s body with his knee and did not recall seeing any officer do so. He did not recall how long it took to handcuff § 87(2)(b). He recalled seeing § 87(2)(b)'s glasses on the ground once they lifted them up and Sgt. Koenig placed these in his pocket. He did not recall if they were broken. After § 87(2)(b) was handcuffed, Sgt. Koenig and PO Dutan stood him up. He and PO Dutan then brought § 87(2)(b) to a transport van for processing. Sgt. Koenig believed § 87(2)(b) was being arrested for disorderly conduct. PO Dutan became the arresting officer for § 87(2)(b). Sgt. Koenig did not recall being involved in any other arrest on scene. He estimated he was on scene for approximately twenty minutes. He did not recall what other actions he took on scene once § 87(2)(b)

§ 87(2)(b) was transported off scene. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. He did not use any profanity on scene and did not hear any other officers doing so [BR11].

Det. Daughtry testified that he was assigned as a Community Affairs officer on the incident. He stated that, during the Police Brutality Protests, the Community Affairs Unit responded to any ongoing protest. He did not recall responding to a protest on July 28, 2020, stating that he had responded to “hundreds” of protests during 2020. He did not recall details of the protest or what actions he took while responding. He was not familiar with § 87(2)(b). He did not recall receiving the instructions to arrest protesters at Madison Square Park. He did not recall any individual being taken to the ground [BR12].

No BWC or TARU footage captures “§ 87(2)(b)” being taken to the ground by officers. None of the BWC footage captures officers using profanity on scene [BR03 and BR20, respectively].

PO Lekperic’s BWC corroborates AC Hughes’ testimony regarding the protesters actions prior to their arrest. From 00:00 minutes to 07:16 minutes, PO Lekperic and other SRG officers follow the protesters, reaching Madison Square Park at 07:16 minutes. Upon reaching the park, the officers form a line in front of the sidewalk’s curb, where the protesters are standing. He appears to remain there until 09:20 minutes, when he moves back across the street. At 09:32 minutes, protesters who were on the sidewalk can be seen entering the street. PO Lekperic’s arm partially covers his BWC, but protesters can still be seen in the street at 10:16 minutes. At 11:09 minutes, a white-shirted officer tells PO Lekperic and the officers he is with, “[The protesters] are blocking traffic...when the right turns green, alright?”. At 11:23 minutes, PO Lekperic and the other officers enter the intersection and begin conducting arrests [BR03].

While there is multiple BWC footage from the protest, § 87(2)(b)’s arrest is most clearly captured in BWC footage from Sgt. Koenig, Det. Plonczynski, and Lt. Gaon. Handheld TARU footage briefly captures § 87(2)(b) being grabbed by officers at 01:48 minutes but does not capture the entirety of his arrest [BR20].

Sgt. Koenig’s BWC footage captures DC Kehoe participating in § 87(2)(b)’s arrest. The video opens with Sgt. Koenig riding his bicycle towards the protesters at the intersection of Madison Avenue and East 25th Street. At 00:23 seconds, DC Kehoe grabs § 87(2)(b)’s arm, who is walking his bicycle in the middle of the road. § 87(2)(b) pulls away from DC Kehoe, who is still holding onto his arm. From 00:29 seconds 00:36 seconds, § 87(2)(b) continues to pull back from DC Kehoe, who moves behind § 87(2)(b) and wraps his arms around his torso. Sgt. Koenig, whom the BWC shows running towards the two, reaches DC Kehoe and § 87(2)(b) at 00:36 seconds. He grabs § 87(2)(b)’s arm and, along with another officer, attempts to pull it behind his back. At 00:42 seconds, § 87(2)(b) goes to the ground, although it is unclear how he does so. § 87(2)(b) lands on his back and officers attempt to roll him onto his stomach. § 87(2)(b) resists, pulling his arm away from the officers, as they attempt to bring his right arm behind his back. § 87(2)(b) repeatedly tells the officers that he has a medical condition as they do this. At 01:04 minutes, Det. Daughtry points a taser at § 87(2)(b) as he lies on his side. Det. Daughtry tells § 87(2)(b) “If you don’t turn over, we’re going to taser you right now.” Other officers yell at § 87(2)(b) to turn over. At 01:30 minutes, § 87(2)(b) is handcuffed and at 01:35, Sgt. Koenig and Lt. Gaon lift § 87(2)(b) to his feet. At 01:44 minutes, Sgt. Koenig picks up a pair of glasses, assumedly belonging to § 87(2)(b). He appears to rub the lens and at 02:01 minutes, he places the glasses in § 87(2)(b)’s pocket. It is not apparent from the video what damage, if any, was sustained [BR13].

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

Allegation (K) Abuse of Authority: Detective KAZ DAUGHTRY threatened § 87(2)(b) with the use of force.

This allegation is being discussed separately but occurred at the same time as the allegations discussed above. The following allegation is being pled based on BWC footage received by the investigation.

Sgt. Koenig's BWC footage captures Det. Daughtry with his taser out. At 01:04 minutes, Det. Daughtry points a Taser at § 87(2)(b) as he lies on his side. Det. Daughtry tells § 87(2)(b) "If you don't turn over, we're gonna taser you right now." Other officers yell at § 87(2)(b) to turn over. At 01:35 minutes, Sgt. Koenig and Lt. Gaon lift § 87(2)(b) to his feet. Sgt. Koenig walks with § 87(2)(b) to a prisoner van, where Sgt. Koenig then hands him another officer for arrest processing [BR13].

Lt. Gaon's BWC footage captures Det. Daughtry at 3:05 minutes in the upper left screen, holding a taser to § 87(2)(b) and says, "If you don't turn over, we're gonna taser you right now." At 03:08 minutes, Det. Daughtry is seen pushing the tip of his taser into § 87(2)(b)'s back three subsequent times. He does not deploy his taser at any point. § 87(2)(b) continues to move back and forth on the ground, with the officers grabbing at his arms and upper body. At 03:24 minutes he is handcuffed and at 03:39 minutes, Lt. Gaon and another officer lift § 87(2)(b) up, who is subsequently walked away. No other force is shown [BR14].

Det. Plonczynski's BWC also captured Det. Daughtry with his taser out. The video briefly opens with § 87(2)(b) being arrested. At 00:20 seconds, Det. Daughtry, identifiable by wearing a blue shirt and tan khakis, stands up and holsters his taser. It does not depict Det. Daughtry's interaction with § 87(2)(b) or any other actions he took with his taser [BR16].

Det. Daughtry testified that he did not recall § 87(2)(b)'s arrest [BR12]. He did not recall if he had his taser out during the incident or if he threatened to tase § 87(2)(b). Upon reviewing Sgt. Koenig's BWC footage, Det. Daughtry acknowledged hearing an officer make the statement, "If you don't turn over, we're gonna tase you," but stated that the voice was not familiar to him. He did not recall, after viewing this footage, if he made this statement. Det. Daughtry's attention was directed to the black male officer holding the taser at 01:39 minutes. He acknowledged being able to see an officer holding a taser but stated that he did not recall the incident after viewing the footage. He was unable to recognize himself on screen and was unable to recall if he had his taser out from viewing the footage [BR12]. Det. Daughtry was also shown Lt. Gaon's BWC footage. He did not recognize § 87(2)(b) and stated that the protest did not look familiar. After reviewing the footage, he did not recall the context of § 87(2)(b)'s arrest or the protest in general. Det. Daughtry was additionally shown Det. Plonczynski's BWC. Det. Daughtry acknowledged seeing himself on the screen, stating that he was the officer in the tan pants. He stated that, upon seeing himself on screen, he did not recall being at the protest or the protest itself. Det. Daughtry confirmed that he saw himself holster a taser in the video. Det. Daughtry stated that, based on his viewing of his footage, it depicts § 87(2)(b) not complying with the orders to place his hands behind, which would have warranted the use of non-lethal force, such as a taser or pepper spray. He stated that he would have his taser out to use non-lethal force against a protester, rather than use physical force. He did not want to testify regarding anything else with this protest, as he did not recall any other details of the protest. He stated that he did not deploy his taser and did not recall if he used any other force during the incident [BR12].

As per NYPD Patrol Guide Procedure 221-08, a conducted electrical weapon (CEW) should be used against persons who are actively resisting, exhibiting active aggression, or to prevent

individuals from physically injuring themselves or other person(s) present. In determining whether the use of a CEW is reasonable a member of service should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat/harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject' violent history (if known), presence of hostile crowd/agitators, or if subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance/increase likelihood of violence. MOS should issue (if possible) a verbal warning to the intended subject and other MOS present. The verbal warning may be used in conjunction with laser/arc warning to gain voluntary compliance and prevent the need to use force [BR22].

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - § 87(2)(b)
- AC Hughes has been a member of service for 41 years and has been a subject in seven prior CCRB cases and 11 allegations, none of which have been substantiated. § 87(2)(g)
- DC Kehoe has been a member of service for 35 years and has been a subject in one prior CCRB case and one allegation, which was not substantiated. § 87(2)(g)
- Sgt. Koenig has been a member of service for 17 years and has been a subject in one prior CCRB case and two allegations, neither of which were substantiated. § 87(2)(g)
- Lt. Gaon has been a member of service for 18 years and has been a subject in one prior CCRB case and two allegations, neither of which were substantiated. § 87(2)(g)
- Det. Daughtry has been a member of service for 18 years and has been a subject in 17 prior CCRB cases and 53 allegations, four of which were substantiated:

- § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b)

Squad: 3

Investigator:	<u>Genevieve Lamont</u>	<u>SI Genevieve Lamont</u>	<u>04/28/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Olga Golub</u>	<u>IM Olga Golub</u>	<u>04/28/2022</u>
	Signature	Print Title & Name	Date

Reviewer: _____

Signature	Print Title & Name	Date
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